

## MEDICAL RECORDS — ETHICAL DECISIONS WHEN PHYSICIANS PART WAYS

By Jeanine Freeman, JD

Physician practice relationships are dynamic. Some might say these relationships are even volatile.

A key issue in a practice departure or break-up is retention and control of medical records. Practice agreements or contracts, medical ethics,

**THE AMERICAN MEDICAL ASSOCIATION ETHICAL OPINIONS ARE A KEY RESOURCE IN UNDERSTANDING THE PHYSICIAN'S RESPONSIBILITY FOR MEDICAL RECORDS.**

and risk management considerations all come into play when a physician leaves a practice. One element remains key — patient interests remain paramount.

Iowa law is relatively silent and of little help in resolving most medical record disputes. The American Medical Association (AMA) ethical opinions, however, constitute a key resource in understanding the physician's responsibility for medical records. E-7.03 says that when a physician leaves a group practice, the physician's patients must be notified that the physician is leaving, must be given the physician's new address, and must be offered the opportunity to have their medical records forwarded to the departing physician's new practice. It is unethical to withhold such information.



Jeanine Freeman is vice president of legal affairs for the Iowa Medical Society.

The practice's contract or partnership agreement may say that it owns the medical records, not the physician. Even so, the responsibility of notice and transfer cannot be ignored. If the notification responsibility falls to the departing physician rather than the group, AMA ethics are clear: the group should not interfere by withholding patient lists or other necessary information.

In the absence of written understandings, Midwest Medical Insurance Company (MMIC) offers the following practical risk management tips. Medical records generated by a group practice generally belong to the group and should stay with the group. Physicians leaving a group are advised to formalize an agreement with the remaining physicians allowing access to any patient's original medical record in the event the physician is named in a lawsuit. The group practice must release patient medical records in all cases where the patient remains with or transfers to the departing physician.

Disciplinary rules of the Iowa Board of Medical Examiners require timely transfer of medical records to the patient's new physician upon request. This rule is in accord with AMA ethical opinion E-7.01 admonishing physicians not to refuse for any reason to make records of a patient promptly available on request to another physician presently treating the patient.

Even if the physician is practicing in violation of a restrictive covenant, the patient's authorized request for transfer of the patient's medical record should be honored unless otherwise directed by a court of law. Medical records should never be withheld for failure to pay a bill for medical services.